

History

River Restoration Program: The River Restoration Program passed by the 1989 Legislature was Montana's first fish habitat restoration program. The purpose of the bill states: *the legislature finds that the conservation of rivers and their fisheries is of vital social and economic importance to Montana. The legislature further finds that some of our state's rivers and fisheries are diminished in value by water pollution, water shortages, and riparian erosion and that there is a need for a program to promote the beneficial use and productivity of our river systems. The legislature further finds that establishment of a river restoration program, funded by anglers from across the state and nation, is a sound and proper method to help ensure that the rivers and fisheries that anglers and others have treasured for Montana's first 100 years will continue to serve the state and its people.* The bill earmarked 50 cents from each resident fishing license, \$1 from each non-resident fishing license, and 50 cents from each sportsmen's license to fund the program.

Projects funded through the program included construction of fencing to protect riparian areas, removal of barriers to fish migration, construction of spawning channels, restoration of stream channels and banks, installation of fish screens on irrigation diversions, and projects to enhance stream flow. Over the six years the program was in existence 59 projects were completed.

Future Fisheries Improvement Program: The success of and angler interest in the River Restoration Program stimulated the 1995 legislature to create a new and expanded fish habitat restoration program known as the Future Fisheries Improvement Program. The purpose of the Future Fisheries Improvement Program is to: *provide spawning streams and other habitats for the natural reproduction and growth of populations of wild fish.* The scope of the program is greater than the river Restoration Program and allows habitat improvement projects to be conducted in lakes and reservoirs as well as in rivers and streams. The enabling legislation established a citizen panel that reviews projects and recommends which projects are to be funded. The Fish, Wildlife and Parks Commission makes final decisions on project funding.

During the first four years of the program 192 projects were approved for funding at a cost of \$3.8 million in program dollars and \$5.4 million in match. Projects addressed a variety of fish habitat needs including in-stream flow; habitat for spawning and rearing; habitat for over-wintering, and security; improvements in fish passage; prevention of fish loss into irrigation diversions; improvements in riparian vegetation and bank cover; and installation of barriers to protect genetically pure native fish populations. It is anticipated that this program will continue to be the backbone of the Department's habitat restoration efforts well into the future.

Natural Resources Damage Settlement – Clark Fork River: In 1983 the State of Montana filed a lawsuit against the Atlantic Richfield Company (formerly Anaconda Minerals Company) seeking compensation for damages to natural resources injured by the release of hazardous substances in the upper Clark Fork River Basin. To quantify damages to fish, wildlife, surface water, and groundwater Montana conducted a natural

resources damage assessment. The assessment quantified the values of services that were lost as a result of the injury to natural resources including hunting, fishing (and river oriented recreation), and use of groundwater for drinking and agriculture. The state also determined the cost of restoring the injured natural resources to the condition that existed prior to the release of hazardous substances. Based upon these analyses, Montana's claim against ARCO totaled \$764 million.

The trial of Montana vs. ARCO began in Great Falls in March of 1997. While the trial was in progress the judge ordered both parties to try and negotiate an out of court settlement. A partial settlement was agreed to and approved by the court on April 19, 1999. Settled portions of the claim included Butte Hill, Montana Pole, Silver Bow Creek, Rocker, Anaconda/Opportunity, and Milltown Reservoir. The settlement included \$118 million (plus interest) for natural resource damage restoration, \$80 million for remediation of Silver Bow Creek, and \$2 million for transfer of property along Silver Bow Creek to the State of Montana. It earmarked \$3.2 million for wetland/riparian restoration and \$500,000 for bull trout restoration. Montana Fish, Wildlife and Parks is responsible for working with the U.S. Fish, and Wildlife Service to plan spending of these two earmarked funding categories.

Unresolved portions of the claim include restoration costs for portions of Butte, uplands above the Anaconda Smelter, and the Clark Fork River. Settlement of remaining claims will either be negotiated between the parties or resolved in court. It is anticipated that all claims will be settled before 2005.

A program has been set up to guide spending of restoration settlement dollars and a restoration plan prepared. Settlement dollars must be used to replace, restore, or acquire resources similar to those that were damaged. Restoration projects will likely be geographically limited to the upper Clark Fork River Basin.